IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

WEDNESDAY, THE THIRTIETH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

and
THE HON'BLE MR JUSTICE GHULAM MOHAMMED

-

W.A.M.P.No.801 of 2005

IN/AND

WRIT APPEAL NO : 2 of 2005

Writ Appeal under Clause 15 of the Letters Patent against the Order dated 07/10/2004 in WP NO : 18185 OF 2004 on the file of the High Court.

Between:

1 APSRTC, Mushirabad, Hyderabad, rep by its Managing Director.
2 APSRTC, Mahaboobnagar Region, Mahaboobnagar,

rep by its Regional Manager
3 APSRTC, Bus Depot Gadwal Mahaboobnagar District
Rep by its Depot Manager

... APPELLANTS

(Respondents in W.A.M.P.)

AND

Sri B.P. Kumar, S/o. Krishnaiah,
APSRTC, E.104661, R/o 18-18, Near Rama Talkies,
Wanaparthy, Mahaboobnagar District.

.....RESPONDENT

(Petitioner in W.A.M.P.)

Counsel for the Appellants: MR.P.VINAYAKA SWAMY

Counsel for the Respondent: MR.V.NARASIMHA GOUD

The Court made the following:

JUDGMENT:

(Per the Hon'ble Sri Justice J.Chelameswar)

The W.V.M.P.No.801 of 2005 is filed with the prayer as follows:

> "to vacate the interim suspension granted on 17.01.2005 passed in WAMP. No.2 of 2005 in WA.No.2 of 2005"

Aggrieved by an order of a learned single Judge of this Court dated 07-10-2004 passed in W.P.No.18185 of 2004, the respondents therein have preferred the present writ appeal.

The respondent herein was working as a Conductor in the appellant-Corporation since 1985. By an order dated 29-07-1992, he was removed from service, on certain allegations. He raised an industrial dispute in I.D.No.647 of 1993 before the Labour Court. The Labour Court, by its Award dated 07-11-1995 ordered reinstatement of the respondent with continuity of service but without back wages. In fact, the relevant portion of the Award reads as follows:

> "In the result, the Award is passed in favour of the petitioner setting aside the removal order Dt 29-7-92 and directing the respondent to reinstate the petitioner into service with continuity of service with attendant benefits. On the punishment of "No Work No Pay" back wages are denied.
> As a punishment and increment is deducted as if not accrued. Necessary orders shall be issued within 30 days of publication of the award."

It appears that the respondent was reinstated into service on 02-05-1996, but his pay was not fixed in accordance with the Award of the Labour Court and therefore he filed the above mentioned Writ Petition with the prayer as follows:

> "Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ or direction particularly one in the nature of Writ of Mandamus declaring the in action of the respondents in not fixing the petitioner's pay by adding notional increments for the out of service period including the suspension period ie.,
> 17-12-1991 to 1-5-1996 as arbitrary, unjust, in violation of Art. 14, 16 and 21 of the

> Constitution of India and contrary to the award made in I.D.No.647 of 1993 and consequently direct the respondents to re-fix the pay by adding the notional increments for the out of service period along with consequential benefits in the interest of justice and fair play"

By the order under appeal, the writ petition was allowed holding that the respondent herein is entitled for notional increments. Aggrieved by the same, the present writ appeal is filed. Ground No.3 of the Memorandum of Grounds of appeal reads as follows:

> "The learned Judge failed to see that the Labour Court directed the corporation to reinstate the workman with continuity of service only but there is no direction with regard to attendant benefits or notional increments as such the learned judge ought not to have directed the Corporation to fix the salary by adding notional increments for out of service period."

Apparently, the appellants did not examine the Award carefully. The Award specifically directs *"reinstatement of the respondent into service with continuity of service with attendant benefits."*

In the circumstances, we are of the opinion that the appeal is misconceived on an erroneous appreciation of the content and language of the Award. Therefore, we do not see any reason to keep the appeal pending.

In view of the above, the W.V.M.P. and the writ appeal are dismissed. No order as to costs.

It goes without saying that the interim orders granted earlier, if any, stand vacated.

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J.Chelameswar, J

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Ghulam Mohammed, J

Dated March 30, 2005.

YCR/MRK

To

1 The Managing Director, APSRTC, Mushirabad, Hyderabad.
2 The Regional Manager, APSRTC, Mahaboobnagar Region, Mahaboobnagar.
3 The Depot Manager, APSRTC, Bus Depot Gadwal Mahaboobnagar District.

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